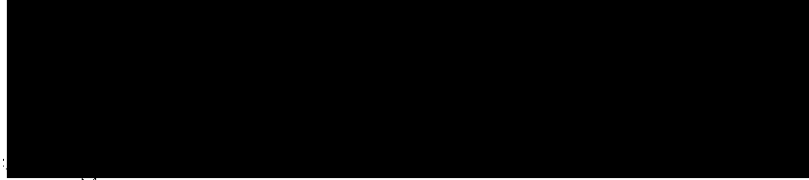




U.S. Department of Justice  
Immigration and Naturalization Service

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OFFICE OF ADMINISTRATIVE APPEALS  
425 Eye Street N.W.  
ULLB, 3rd Floor  
Washington, D.C. 20536



File: EAC-99-234-51972 Office: Vermont Service Center Date: NOV 28 2000

IN RE: Petitioner:  
Beneficiary:



Petition: Petition for Special Immigrant Religious Worker Pursuant to Section 203(b)(4) of the Immigration and Nationality Act, 8 U.S.C. 1153(b)(4)

IN BEHALF OF PETITIONER: Self-represented

Public Copy

INSTRUCTIONS:

This is the decision in your case. All documents have been returned to the office which originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. 103.5(a)(1)(i).

If you have new or additional information which you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Service where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. Id.

Any motion must be filed with the office which originally decided your case along with a fee of \$110 as required under 8 C.F.R. 103.7.

FOR THE ASSOCIATE COMMISSIONER,  
EXAMINATIONS

Identifying data omitted to  
prevent clearly unwarranted  
invasion of personal privacy

Mary C. Mulrean, Acting Director  
Administrative Appeals Office

**DISCUSSION:** The immigrant visa petition was denied by the Director, Vermont Service Center. The matter is now before the Associate Commissioner for Examinations on appeal. The appeal will be dismissed.

The petitioner seeks classification of the beneficiary as a special immigrant religious worker pursuant to section 203(b)(4) of the Immigration and Nationality Act (the Act), 8 U.S.C. 1153(b)(4), to serve as an evangelist. The director denied the petition determining that the petitioner had failed to establish the beneficiary's two years of continuous religious work experience.

On appeal, dated August 28, 2000, the petitioner argued that the beneficiary is eligible for the benefit sought. The petitioner indicated that additional information would be submitted within 30 days. As of this date, over two months later, no additional evidence has been submitted.

Section 203(b)(4) of the Act provides classification to qualified special immigrant religious workers as described in section 101(a)(27)(C) of the Act, 8 U.S.C. 1101(a)(27)(C), which pertains to an immigrant who:

- (i) for at least 2 years immediately preceding the time of application for admission, has been a member of a religious denomination having a bona fide nonprofit, religious organization in the United States;

- (ii) seeks to enter the United States--

- (I) solely for the purpose of carrying on the vocation of a minister of that religious denomination,

- (II) before October 1, 2003, in order to work for the organization at the request of the organization in a professional capacity in a religious vocation or occupation, or

- (III) before October 1, 2003, in order to work for the organization (or for a bona fide organization which is affiliated with the religious denomination and is exempt from taxation as an organization described in section 501(c)(3) of the Internal Code of 1986) at the request of the organization in a religious vocation or occupation; and

- (iii) has been carrying on such vocation, professional work, or other work continuously for at least the 2-year period described in clause (i).

The beneficiary is a fifty-five-year-old single female native and citizen of Barbados. The petitioner indicated that the beneficiary entered the United States as a visitor on September 28, 1994, and has remained in the United States since such date. The petitioner did not indicate whether the beneficiary had ever worked in the United States without permission or whether she was in deportation or exclusion proceedings.

At issue in the director's decision is whether the petitioner has established that the beneficiary had two years of continuous work experience in the proffered position.

8 C.F.R. 204.5(m) (1) states, in pertinent part, that:

All three types of religious workers must have been performing the vocation, professional work, or other work continuously (either abroad or in the United States) for at least the two year period immediately preceding the filing of the petition.

The petition was filed on August 2, 1999. Therefore, the petitioner must establish that the beneficiary had been continuously working in the prospective occupation for at least the two years from August 2, 1997 to August 2, 1999.

The petitioner submitted a "letter of support" which indicated that it "is providing the following for [the beneficiary]: Room, clothings, food and other needed items." The petitioner also submitted two "individual statements of support" signed by the beneficiary on June 8, 1998. In one of the statements, the beneficiary attests that she is "anticipating being hired at the [petitioner's] as a part time (employee) Religious Worker in the near future . . . I am working part-time at the church." In the other statement, the beneficiary attests that she is "anticipating being hired at the [petitioner's] as a FULL time (employee)." The word "FULL" was typed in over white-out.

On March 3, 2000, the director requested that the petitioner submit evidence of the beneficiary's employment during the two-year period prior to filing. In response, the petitioner reaffirmed that the beneficiary was working for it on a part-time basis. The petitioner submitted photocopies of nine hand-written notes which indicate that the beneficiary received \$600.00 or \$800.00 for "services rendered." All of these notes were dated subsequent to the qualifying period. The petitioner also submitted a self-prepared financial statement for the year ended December 31, 1999. There is no allowance for any salaries under expenses on this financial statement.

On appeal, the petitioner stated that the beneficiary is currently working for it on a full-time basis. The petitioner requested that the previously-submitted evidence be reviewed. Neither the statute nor the regulations stipulate an explicit requirement that the work experience must have been full-time paid employment in order to be considered qualifying. This is in recognition of the special circumstances of some religious workers, specifically those engaged in a religious vocation, in that they may not be salaried in the conventional sense and may not follow a conventional work schedule. 8 C.F.R. 204.5(m)(2) defines a religious vocation, in part, as a calling to religious life evidenced by the taking of vows. The regulations therefore recognize a distinction between someone practicing a life-long religious calling and a lay employee. The regulation defines religious occupations, in contrast, in general terms as an activity related to a traditional religious function. *Id.* In order to qualify for special immigrant classification in a religious occupation, the job offer for a lay employee of a religious organization must show that he or she will be employed in the conventional sense of full-time salaried employment. See 8 C.F.R. 204.5(m)(4). Therefore, the prior work experience must have been full-time salaried employment in order to qualify as well. The absence of specific statutory language requiring that the two years of work experience be conventional full-time paid employment does not imply, in the case of religious occupations, that any form of intermittent, part-time, or volunteer activity constitutes continuous work experience in such an occupation. In this case, both the beneficiary and the petitioner have clearly indicated that the beneficiary worked for the petitioner on a part-time basis prior to the filing of the petition. Furthermore, the petitioner has not submitted any independent, corroborative evidence to support its contention that it supported the beneficiary throughout this period. Simply going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. See Matter of Treasure Craft of California, 14 I&N Dec. 190 (Reg. Comm. 1972).

The petitioner has not established that the beneficiary was continuously engaged in a religious occupation from August 2, 1997 to August 2, 1999. The objection of the director has not been overcome on appeal. Accordingly, the petition may not be approved.

Beyond the decision of the director, the petitioner has failed to establish that the prospective occupation is a religious occupation as defined at 8 C.F.R. 204.5(m)(2) or that the beneficiary is qualified to work in a religious occupation as required at 8 C.F.R. 204.5(m)(3). Further, the petitioner has failed to establish that it is a qualifying, non-profit, religious organization as required at 8 C.F.R. 204.5(m)(3) or that it made a valid job offer to the beneficiary as required at 8 C.F.R. 204.5(m)(4). Also, the petitioner has failed to establish that it has the ability to pay

the proffered wage as required at 8 C.F.R. 204.5(g)(2). As the appeal will be dismissed on the ground discussed, these issues need not be examined further.

The burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. 1361. The petitioner has not sustained that burden.

**ORDER:** The appeal is dismissed.